STRAITS SETTLEMENTS.

[ORIGINAL CIVIL JURISDICTION]

MILLS, J. February 4, 1933.

IN THE MATTER OF THE ESTATES OF ANG KIM TEE DECEASED AND ANG TEOW GUAN DECEASED

and

IN THE MATTER OF ORDINANCE No. 36 (CONVEYANCING AND LAW OF PROPERTY) AND THE TRUSTEES ORDINANCE 1929.

[SINGAPORE ORIGINATING SUMMONS No. 54 of 1931]

Solicitor—Sale of property in lots—Scale of costs—Mode of calculation—Ordinance No. 101 (Courts) S. 117.

An advocate and solicitor was employed to sell by auction certain immoveable property belonging to the estate of a deceased Testator. The property was sold in lots each lot being sold to a different purchaser and held under a different title.

Held, that the scale fee under S. 117 of Ordinance No. 101 (Courts) must be calculated not on the purchase money of each lot but as one percentage on the aggregate amount of the purchase money of all the lots.

Summons in Chambers.

Johannes for Estate & Trust Agencies (1927) Ltd.

Thornton-Jones for Trustees of Ang Teow Soon deceased.

Koek for Lee Siok Toon Neo.

MILLS, J.—The question for determination is whether the remuneration of a vendor's solicitor for conducting a sale of property by public auction is to be calculated under the Schedule to Ordinance No. 101 (Courts), upon the amount realized in respect of each lot sold, or upon the total amount realized on the sale of all the lots.

The first item in the Schedule is substantially the same as the second item in Part I of Schedule I of the General Order dated 1883, made under the (English) Solicitors' Remuneration Act, 1881.

The second item has been the subject of judicial interpretation in the English case *In re the Onward Building Society; ex parte Watson* (62, L.J. Q.B. p. 80); Pollock B., and Hawkins J., held that the remuneration was to be calculated upon the total amount realized on the sale of all the lots.

In a local case, (*In the Matter of the trusts of the Will of Tan Kim Cheng deceased, Tan Seow Kong* v. *Tan Kwee Swee and Tan Kwee Wah*, Singapore Originating Summons No. 15 of 1913), Sproule J., in a written judgment interpreted the first item of the Schedule to Ordinance No. 101 (Courts) in the same sense.

In my respectful opinion, the decision in the two above cases were correct. Accordingly, I hold that the remuneration of the Vendor's solicitor must be calculated upon the total amount realized on the sale of all the lots.

As to any lots which may have remained unsold, I hold, following the interpretation of Hawkins J., that the Vendors' Solicitor may calculate his remuneration upon the reserved price of each lot.

It was argued before me that the English case *In re Sir Robert Peel's Settled Estates* (1910, 1 Ch. p. 389), authorised the Vendor's solicitor to calculate his remuneration upon the amount realized in respect of each lot sold. I find myself unable to agree with that argument. As I understand that case, it decided that in England it is competent to the Vendor's Solicitor, who, before entering upon the business, has given the necessary notice under Rule 6 of the General Order under the Solicitors' Remuneration Act, 1881, of his intention to charge the ordinary detailed charges and not the scale fee in the case of sales under a certain amount, to treat the sale of each lot as a separate transaction, and to charge his costs accordingly. But the right of election given by Rule 6 of the (English) General Order is not given by Ordinance No. 101 (Courts); in this Colony, the Solicitors' remuneration is to be regulated, as laid down in Section 117 of the Ordinance, by the Schedule.

Solicitors for Estate & Trust Agencies (1927) Ltd., personal representatives of Ang Kim Tee deceased—*Johannes & Sammy.*

Solicitors for Trustees of Will of Ang Teow Soon deceased—*Allen & Gledhill.*

Solicitors for executrix of Tan Peck Wan deceased—*Chan & Eber.*

[ORIGINAL CIVIL JURISDICTION]

MURISON, C.J. February 5, 1933.

THE OFFICIAL ASSIGNEE OF THE PROPERTY OF KADER DAD, A BANKRUPT

vs.

SOLOMON.

[SINGAPORE CIVIL SUIT No. 1591 of 1931]

Ordinance No. 44 (Bankruptcy)—Bankruptcy Rule 269.

An Assistant Official Assignee is authorised to sign pleadings in a Civil Suit on behalf of the Official Assignee.

Summons in Chambers.

The Official Assignee, Singapore, suing as Official Assignee of the property of Kader Dad, a bankrupt, brought an action against one S. E. Solomon claiming to recover money due on a bond. The Writ and Statement of Claim were signed on behalf of the Plaintiff by an Assistant Official Assignee.

The Defendant applied to the Court by summons to strike out the Writ and the Statement of Claim on the ground that they were not signed by the Plaintiff or his Solicitor.

A. V. L. Davies for the defendant.

E. N. Taylor, Assistant Official Assignee, for the Plaintiff.

MURISON, C.J., gave an oral judgment to the following effect:—

"Application dismissed with costs, if any. Bankruptcy Rule 269 equates the Assistant Official Assignee with the Official Assignee and Ordinance No. 44 (Bankruptcy) Section 81, gives the Official Assignee power to bring actions on behalf of adjudicated person, which the plaintiff is."

Plaintiff in person.

Solicitors for the Defendant—*Messrs. Aubrey Davies & Co.*

[ORIGINAL CIVIL JURISDICTION]

MURISON, C.J. March 5, 1933.

THE INTERNATIONAL BANKING CORPORATION

vs.

1. QUEK CHENG CHEK,
2. QUEK HONG CHIAM.

[SINGAPORE ORIGINATING SUMMONS No. 222/32]

Practice—Powers of Registrar—Power of Court to delegate appointment of Receiver to Registrar—Civil Procedure Code, S. 815.

Summons in Chambers.

The Plaintiffs claimed a declaration that they were equitable mortgagees of certain immoveable property in the jurisdiction and consequential relief including the appointment of a Receiver of the property, the relevant prayer of the Originating Summons being that "the Registrar do appoint a fit and proper person to be Receiver, &c." On the hearing of the Originating Summons which was unopposed the Court ordered accordingly and subsequently the Registrar appointed a Receiver.

The Plaintiffs being uncertain as to the validity of this order and to cure any possible defect in the appointment applied by way of Summons in Chambers for the appointment of the same person as Receiver.

Storr for the Plaintiffs.

The Court (Murison, C.J.) held that the Court cannot under the Civil Procedure Code delegate to the Registrar power to appoint a Receiver.

Solicitors for the Plaintiffs—*Messrs. Drew & Napier.*

[ORIGINAL CIVIL JURISDICTION]

MURISON, C.J. March 21, 1933.

THE NANYO PRINTING OFFICE

vs.

THE LINOTYPE & MACHINERY, LIMITED.

[SINGAPORE CIVIL SUIT No. 859/32]

Agreement under seal—Purchase of printing machine by instalments—Purchase money payable in "dollars (Gold)"—Meaning of expression "dollars (Gold)"—Method of ascertaining rate of exchange into Straits Settlements currency.

Plaintiffs and Defendants executed an agreement under seal for the sale by the Defendants to the Plaintiffs of a Linotype Machine for $4,550 (Gold), the Plaintiffs paying $1,137.50 (Gold) on the execution of the agreement, the balance $3,412 (Gold) by 36 instalments. Plaintiffs claimed that all payments under this agreement should be at the fixed rate of 56 cents U.S. Currency to $1 Straits Settlements Currency, which represents parity. The Defendants contended that payment was to be in U.S. Currency at the current rate ruling on such date in Singapore as the payment had to be made.

Spencer Wilkinson for Plaintiffs.

Knowles for Defendants.

MURISON, C.J., delivered an oral Judgment. The material passage of the formal Judgment is as follows:—

"This Court doth declare that the expression Dollars Gold contained in the Agreement under seal referred to in the Statement of Claim herein refers to the Currency of the United States of America and that all payments due or to become due from the Plaintiffs to the Defendants under the said Agreement are or were payable in the said currency at the current rate ruling upon such date in Singapore as the said payment should have been made."

Solicitors for Plaintiffs—*Donaldson and Burkinshaw.*

Solicitors for Defendants—*Braddell Brothers.*